

In the Matter of Merchant Mariner's Document No. Z-77904
Issued to: WILLIE LEE

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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WILLIE LEE

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 14 November, 1951, an Examiner of the United States Coast Guard at New York City revoked Merchant Mariner's Document No. Z-77904 issued to Willie Lee upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as pantryman on board the U.S.N.S. GENERAL J. H. McRAE under authority of the document above described, on or about 7 September, 1950, while said vessel was in the port of Bremerhaven, Germany, he wrongfully had in his possession a narcotic substance; to wit, marijuana.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Although advised of his right to be represented by an attorney of his own selection, Appellant voluntarily elected to waive that right and act as his own counsel. He entered a plea of "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and Appellant made a statement in mitigation based upon his prior clear record as a seaman since 1923 and the fact that going to sea has been his life's work.

At the request of the Examiner, a certified copy of the action taken against Appellant by the U. S. Court of the Allied High Commission for Germany was introduced in evidence.

At the conclusion of the hearing, having given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by plea and entered the order revoking Appellant's Merchant Mariner's Document No. Z-77904 and all other licenses, certificates of service and documents issued to this Appellant by the United States Coast Guard or its predecessor authority.

From that order, this appeal has been taken, and it is urged that Appellant is not a dealer in narcotics since he had only four marijuana cigarettes in his possession; that Appellant was honest enough to admit his mistake by pleading guilty; that since Appellant served five months of his six

months' sentence at the Federal Correctional Institute at Danbury, Connecticut, this action is an additional punishment for the same offense; and that because of his prior unblemished record, Appellant should be permitted to pursue his seagoing career.

APPEARANCES: Abraham Klinghoffer, Esquire, of New York City, of Counsel.

FINDINGS OF FACT

On 7 September, 1950, Appellant was serving as pantryman on board the U.S.N.S. GENERAL J. H. McRAE and acting under authority of his Merchant Mariner's Document No. Z-77904.

On this date, Appellant was apprehended with five marijuana cigarettes in his possession while he was attempting to import them into Bremerhaven, Germany, without proper license or authority. When arraigned on this charge before the United States Court of the Allied High Commission for Germany at Bremerhaven on 8 September, 1950, Appellant entered a plea of guilty and was sentenced to six months imprisonment.

OPINION

I do not feel that there is any substantial merit in the several points raised by Appellant in this appeal. Proof of continued dealings in narcotics is not necessary to apply the policy of revocation which has been consistently followed by the Coast Guard in such cases. Appellant's prior unblemished record and honesty in admitting his guilt are commendable but of no avail to offset the order imposed. The primary purpose of these proceedings is not to punish seamen for their offenses but to protect lives and property from the unnecessary dangers created by the improper acts of merchant seamen. This is particularly true with respect to any offenses involving narcotics because of the havoc which might result from the use of narcotics aboard ship. Therefore, this is a remedial action taken against Appellant's document rather than a second punishment against his person for the same offense.

ORDER

The order of the Examiner dated 14 November, 1951, should be, and it is, AFFIRMED.

Merlin O'Neill
Vice Admiral, United States Coast Guard
Commandant

Dated at Washington, D. C., this 10th day of March, 1952.